



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

## NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 09/16/2005

Van Pektm Yi & James, LLP  
10050 North Foothill Boulevard  
Suite 200  
Cupertino, CA 95014

EXAMINER

RHODE JR, ROBERT E

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 09/16/2005

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/653,095	08/31/2000	Heath B. Clarke	ELIBER.001A	4070

TITLE OF INVENTION: METHODS AND SYSTEMS FOR A DYNAMIC NETWORKED COMMERCE ARCHITECTURE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$700	\$0	\$700	12/16/2005

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.**

**THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.**

### HOW TO REPLY TO THIS NOTICE:

#### I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

# **PART B - FEE(S) TRANSMITTAL**

Complete and send this form, together with applicable fee(s), to: **Mail**

**Mail Stop ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
(571) 273-2885**

or **Fax**

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 09/16/2005

Van Pektm Yi & James, LLP  
10050 North Foothill Boulevard  
Suite 200  
Cupertino, CA 95014

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/653,095	08/31/2000	Heath B. Clarke	ELIBER.001A	4070

TITLE OF INVENTION: METHODS AND SYSTEMS FOR A DYNAMIC NETWORKED COMMERCE ARCHITECTURE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$700	\$0	\$700	12/16/2005

EXAMINER	ART UNIT	CLASS-SU BCLASS
RHODE JR, ROBERT E	3625	705-007000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).  
☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.  
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list  
 (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,  
 (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 \_\_\_\_\_  
 2 \_\_\_\_\_  
 3 \_\_\_\_\_

### 3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

#### 4a. The following fee(s) are enclosed:

- ☐ Issue Fee  
☐ Publication Fee (No small entity discount permitted)  
☐ Advance Order - # of Copies \_\_\_\_\_

#### 4b. Payment of Fee(s):

- ☐ A check in the amount of the fee(s) is enclosed.  
☐ Payment by credit card. Form PTO-2038 is attached.  
☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

#### 5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above. NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/653,095	08/31/2000	Heath B. Clarke	ELIBER.001A	4070

7590 09/16/2005

Van Pektm Yi & James, LLP  
10050 North Foothill Boulevard  
Suite 200  
Cupertino, CA 95014

EXAMINER

RHODE JR, ROBERT E

ART UNIT	PAPER NUMBER
----------	--------------

3625

DATE MAILED: 09/16/2005

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 857 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 857 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

# Notice of Allowability

Application No.

09/653,095

Examiner

Rob Rhode

Applicant(s)

CLARKE, HEATH B.

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Decision of the BPAI on 5/13/2005.
2. ☒ The allowed claim(s) is/are 4 - 5, 8 - 20.
3. ☒ The drawings filed on 8/31/05 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
**WYNN W. COGGINS**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

**DETAILED ACTION**

**EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. James on 8-15-05.

The application has been amended as follows:

**In the Claims**

Claims 1 – 25 have been rewritten as follows:

1. (Canceled)
2. (Canceled)
3. (Canceled)
4. (Currently Amended) A method of providing access to information relating to a plurality of products using a cascading commerce menu, comprising:  
providing a first level menu listing a first set of product categories;

detecting a position of a cursor over a first product category listed in said first set of product categories;

providing a cascading second level menu listing a first set of product subcategories related to said first product category in response to said detection of said cursor position, and

automatically generating a search string based on said first product category and said first product subcategory.

5. (Original) The method as defined in Claim 4, further comprising providing a display of a plurality of products from multiple vendors, where the plurality correspond to the search string.

6. (Canceled)

7. (Canceled)

8. (Currently Amended) A method of providing access to information relating to a plurality of products using a cascading commerce menu, comprising:

providing a first level menu listing a first set of product categories;

detecting a position of a cursor over a first product category listed in said first set of product categories;

providing a cascading second level menu listing a first set of product subcategories related to said first product category in response to said detection of said cursor position; and

ranking providers based on an aggregate price of an item available from the providers wherein the item corresponds to the first product category and the first product subcategory, the method comprising:

receiving a first item price for said item from a first provider;

receiving a first additional cost associated with providing the item by said first provider to a first consumer;

receiving a second item price for said item from a second provider; receiving a second additional cost associated with providing the item by said second provider to said first consumer; and

ranking said first provider and said second provider based on at least said first item price, said second item price, said first additional cost, and said second additional cost.

9. (Original) The method as defined in Claim 8, wherein said first additional cost is a shipping cost associated with the provision of said item from said first provider, and said second additional cost is a shipping cost associated with the provision of said item from said second provider.

10. (Original) The method as defined in Claim 8, wherein said first additional cost is a tax associated with the provision of said item from said first provider, and said second additional cost is a tax associated with the provision of said item from said second provider.

11. (Original) The method as defined in Claim 8, wherein said first additional cost is an insurance cost associated with the provision of said item from said first provider, and

said second additional cost is an insurance cost associated with the provision of said item from said second provider.

12. (Original) The method as defined in Claim 8, wherein an addition of said second item price and said second additional cost is lower than an addition of said first item price and said first additional cost, and where said second provider is ranked higher than said first provider.

13. (Original) The method as defined in Claim 12, further comprising receiving a bid from said first provider to lower at least one of said item price and said first additional cost to thereby improve the first provider's ranking.

14. (Original) A method of providing access to information relating to a plurality of products using a cascading commerce menu, comprising:

- providing a first level menu including a set of high-level product categories;
- detecting a customer selection of a high-level product category from said set of high-level product categories;

- providing a cascading second level menu including a set of relatively narrower product categories related to said high-level product category in response to said customer selection;

- detecting a customer selection of a relatively narrower product category from said set of relatively narrower product categories;

- automatically generating a search request based at least in part on said customer selection of said relatively narrower product category; and



providing the customer with information on products related to said selected relatively narrower product category at least partly in response to said search request.

15. (Original) The method as defined in Claim 14, further comprising providing the customer a reward at least partly in response to using the cascading commerce menu.

16. (Original) The method as defined in Claim 15, wherein the reward is a credit.

17. (Original) The method as defined in Claim 14, further comprising providing the customer a reward in response to the customer purchasing at least one product associated with the selected relatively narrower product category.

18. (Original) The method as defined in Claim 14, further comprising providing an advertisement on at least one of said first level menu and said cascading second level menu.

19. (Original) The method as defined in Claim 14, wherein said information on products includes a ranked list of said products.

20. (Original) The method as defined in Claim 19, wherein the ranking is modified based at least in part on a bid from at least a first provider of one of said products in the ranked list.

21. (Canceled)

22. (Canceled)

23. (Canceled)

24. (Canceled)

25. (Canceled)

### **Reasons for Allowance**

The invention claimed in the independent claims are distinguished from prior art of record, which contains no teachings or suggestions that would have motivated one of ordinary skill in the art to modify the method and system disclosed by Sanford with the method and system of Axaopoulos to have enabled a method for the subject matter recited in independent claims 4 and 14 as stated by the BAPI. To begin with, Sanford discloses a method for a left to right cascading menu, which further teaches a method of providing access to information relating to a plurality of products using a cascading commerce menu, comprising: providing a first level menu listing a first set of product categories; detecting a position of a cursor over a first product category listed in said first set of product categories; and providing a cascading second level menu listing a first set of product subcategories related to said first product category in response to said detection of said cursor position. Axaopoulos, on the other hand discloses a method for accessing a database via a tree data structure, which links a set of nodes associated with a corresponding term. However and as noted by the BPAI for claim 8, Axaopoulos does not teach or would have suggested to one of ordinary skill a method for the "ranking" limitations in the claim. Moreover and as result, the BPAI also noted that there was no motivation to combine Sanford and Axaopoulos. In that regard and as stated by BPAI, the combined teachings of Sanford and Axaopoulos do not teach or suggest to one of ordinary skill that the differences between the subject matter recited in independent claims 4, 8 and 14 and the prior art are such that the subject matter as

obvious at the time the invention was made to a person having ordinary skill in the art. Therefore, the invention claimed in independent claims 4, 8 and 14 are distinguished from prior art of record by the fact that the BPAI stated that one of ordinary skill in the art would not have been motivated to combine Sanford and Axaopoulos in order to automatically generating a search string based on said first product category and first product subcategory. In addition and as stated by the BPAI that Axaopoulos does not disclose or teach "ranking" of providers.

Discussion of the most relevant prior art, which does not fully disclose nor render obvious the invention as stated in claims 4, 8 and 14:

**A. US Patents and PG-Pubs.**

(i) US 6,256,028 B1 to Sanford discloses a method for a left to right cascading menu, which disclose and teaches a method of providing access to information relating to a plurality of products using a cascading commerce menu, comprising: providing a first level menu listing a first set of product categories; detecting a position of a cursor over a first product category listed in said first set of product categories; and-providing a cascading second level menu listing a first set of product subcategories related to said first product category in response to said detection of said cursor position. However, Sanford does not disclose or teach a method using a cascading commerce menu, comprising: providing a ranking of providers.

(ii) US 6,286,002 B1 to Axaopoulos discloses a method for accessing a database via a tree data structure, which links a set of nodes associated with a corresponding term. However, Axaopoulos does not disclose or teach a method using a cascading commerce menu, comprising: providing a ranking of providers.

(iii) US 6,158,541 B1 to Scroggie discloses a method and system for delivering purchasing incentives and a variety of other retail shopping aids through a computer network. However, Scroggie does not disclose method using a cascading commerce menu, comprising: providing a ranking of providers

(iv) US 6,260,024 B1 to Shkedy discloses a method, medium and system for providing a global bilateral buyer-driven system for creating binding contracts by incorporating various methods of communication, commerce and security for the buyers and the sellers. Individual buyers purchase requirements are aggregated into a single collective purchase requirement and sellers are located willing to bid on the collective purchase requirement. A central controller facilitates the buyer/seller transaction by fielding binding offers from buyers, aggregating those offers into group (i.e. pooled) offers and communicating those group offers globally in a format which can be efficiently accessed and analyzed by potential sellers. However, Shkedy does not disclose a method using a cascading commerce menu, comprising: providing a ranking of providers

### **B. Non Patent Literature**

(iv) "Best free stuff online"; Harry McCracken; PC World; San Francisco; June, 1999 and hereafter referred to as "Best" discloses a method for web hosting sites, which include cascading menu's as well as searching. However, Best does not teach or suggest to one of ordinary skill in the art a method or system for a method using a cascading commerce menu, comprising: providing a ranking of providers

### **C. Foreign Patent Literature**

(v). EP 0 717 343 A1 to Elsbree discloses a method and system for a computer system for retrieving and presenting a set of commands in the form of a pop up context menu such as a cascading menu for a selected object. However, Elsbree does not disclose searching nor does the reference disclose ranking. Thereby, this online method, medium and system disclosed by Elsbree fails to anticipate the above bolded unique limitations or render them obvious.

### **Conclusion**

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 3625

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rob Rhode whose telephone number is 571.272.6761.

The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571.272.7159.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450


Alexandria, Va. 22313-1450

or faxed to:

571.273.8300 [Official communications; including  
After Final communications labeled  
"Box AF"]

[Informal/Draft communications, labeled  
"PROPOSED" or "DRAFT"]

RER

  
WYNN W. COGGINS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600